



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 18-742
Released: July 18, 2018

DOMESTIC SECTION 214 APPLICATIONS GRANTED SUBJECT TO CONDITION

WC Docket Nos. 17-101, 17-365, 18-68, 18-94, 18-95, 18-177

By this Public Notice, the Wireline Competition Bureau (Bureau) grants the following applications, as conditioned and pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03 and 63.04 of the Commission's rules.¹ The Bureau received no comments in opposition to a grant of the applications.

Domestic Section 214 Application Filed for the Transfer of Control of Westphalia Telephone Company and Westphalia Broadband, Inc. to Chapin Communications Corporation, WC Docket No. 17-101 (filed Apr. 18, 2017). On May 12, 2017, the Bureau released a Public Notice requesting comment on an application filed by Clinton County Telephone Company (Clinton), Westphalia Telephone Company (WTC), Westphalia Broadband, Inc. (WBI), and Chapin Communications Corporation (Chapin) requesting approval for the transfer of control of WTC and WBI to Chapin.² WTC and WBI are wholly owned subsidiaries of Clinton. WTC is a rural incumbent local exchange carrier (LEC) providing service in and around Westphalia, Michigan in portions of Clinton and Ionia Counties.³ WTC voluntarily elected to receive universal service support under the Alternative Connect America Cost Model (A-CAM).⁴ Chapin, a holding company, wholly owns Farmers Mutual of Chapin d/b/a Chapin Telephone Company (CTC). CTC is a rural incumbent LEC providing service in portions of Saginaw and Shiawassee Counties in central Michigan. CTC did not elect to receive model-based support and currently receives support as an average schedule company.⁵ The incumbent LEC service territories of WTC and CTC are not overlapping or adjacent.

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-63.04. Any action on these domestic section 214 applications is without prejudice to Commission action on other related, pending applications.

² *Domestic Section 214 Application Filed for the Transfer of Control of Westphalia Telephone Company and Westphalia Broadband, Inc. to Chapin Communications Corporation*, WC Docket No. 17-101, Public Notice, DA 17-457 (rel. May 12, 2017).

³ WBI provides competitive LEC service to approximately 500 subscribers in and around St. Johns and DeWitt, Michigan.

⁴ *Wireline Competition Bureau Authorizes 182 Rate-of-Return Companies to Receive \$454 Million Annually in Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, 32 FCC Rcd 842 (WCB Jan. 24, 2017) (*A-CAM Public Notice*). The Commission has adopted a voluntary path by which rate-of-return carriers could elect to receive a fixed amount of universal service support under A-CAM, a forward-looking broadband cost model, for 10 years in exchange for deploying broadband-capable networks to eligible locations. *Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3090, para. 4, 3096-3117, paras. 20-79 (2016) (*Rate-of-Return Reform Order*).

⁵ On June 21, 2018, CTC filed an *Ex Parte* letter addressing its status as an average schedule company in the context of the proposed transaction. Letter from Thomas J. Moorman, Counsel to Chapin Communications Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-101 (filed June 21, 2018). See Universal Service

Domestic Section 214 Application Filed for the Transfer of Control of Scott-Rice Telephone Co. from Allstream Business US, LLC to New Ulm Telecom, Inc., WC Docket No. 18-68 (filed Mar. 8, 2018). On March 14, 2018, the Bureau released a Public Notice requesting comment on an application filed by Allstream Business US, LLC (formerly known as Electric Lightwave Holdings, Inc. and Allstream Business US, Inc.) (Allstream) and New Ulm Telecom, Inc. (New Ulm) requesting approval for the transfer of control of Scott-Rice Telephone Co. (Scott-Rice) from Allstream to New Ulm.⁶ Scott-Rice provides services as an incumbent LEC in the communities of Prior Lake, Savage, Webster, Elko, and New Market in Scott and Rice Counties in south central Minnesota. Scott-Rice did not elect to receive model-based support and currently receives support as an average schedule company.⁷ New Ulm provides services as an incumbent LEC in southern Minnesota and northern Iowa. New Ulm voluntarily elected to receive universal service support under the A-CAM.⁸ Scott-Rice and New Ulm, together with their affiliates, have no overlapping or adjacent incumbent LEC service areas.

Domestic Section 214 Application Filed for the Transfer of Control of Peoples Mutual Telephone Company and Peoples Mutual Long Distance Company to RiverStreet Management Services, LLC, WC Docket No. 17-365 (filed Jan. 12, 2018); Domestic Section 214 Application Filed for the Transfer of Control of Ellerbe Telephone Company, Inc. to RiverStreet Management Services, LLC, WC Docket No. 18-94 (filed Mar. 26, 2018); Domestic Section 214 Application Filed for the Transfer of Control of Tri-County Telephone Membership Corporation to Wilkes Telephone Membership Corporation, WC Docket No. 18-95 (filed Mar. 26, 2018). On January 16, 2018, the Bureau released a Public Notice requesting comment on an application filed by Consolidated Communications Holdings, Inc. (CCHI) and RiverStreet Management Services, LLC (RiverStreet) requesting consent to transfer control of CCHI's indirect subsidiaries, Peoples Mutual Telephone Company (PMTC) and its wholly owned subsidiary, Peoples Mutual Long Distance Company (PMLDC), to RiverStreet.⁹ PMTC provides incumbent LEC service in Pittsylvania Co., Virginia. PMTC voluntarily elected to receive universal service support under the Connect America Cost Model (CAM).¹⁰ PMLDC

(Continued from previous page)

Administrative Co., Tools, <https://www.usac.org/hc/tools/default.aspx> (last visited June 6, 2018) (listing carriers that elected to receive support for loop costs based on existing methodologies). Average schedule companies receive support based on formulas that use the reported costs of the companies. See, e.g., *National Exchange Carrier Association, Inc. 2018 Modification of Average Schedule Universal Service Support Formula, High-Cost Universal Service Support*, Order, 32 FCC Rcd 7654 (WCB 2017). An incumbent LEC may convert from an average schedule company to a cost company, but a carrier must obtain a waiver of the definition of "average schedule company" in section 69.605(c) to change from a cost company to an average schedule company. See 47 CFR § 69.605(c).

⁶ *Domestic 214 Application Filed for the Transfer of Control of Scott-Rice Telephone Co. from Allstream Business US, LLC to New Ulm Telecom, Inc.*, WC Docket No. 18-68, Public Notice, DA 18-250 (rel. Mar. 14, 2018).

⁷ Universal Service Administrative Co., Tools, <https://www.usac.org/hc/tools/default.aspx>.

⁸ *A-CAM Public Notice*, 32 FCC Rcd at 845 (Attach.).

⁹ *Domestic Section 214 Application Filed for the Transfer of Control of Peoples Mutual Telephone Company and Peoples Mutual Long Distance Company to RiverStreet Management Services, LLC*, WC Docket No. 17-365, Public Notice, DA 18-48 (rel. Jan. 16, 2018).

¹⁰ PMTC is regulated as a price cap company and receives Connect America Fund (CAF) Phase II model-based support. CAM refers to the forward-looking model that calculates the cost of providing services in high cost areas and sets a fixed amount of support for price cap carriers serving those areas that is available through CAF. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17667, 17673-74, paras. 20-24 (2011) (*USF/ICC Transformation Order* and/or *FNPRM*), *aff'd sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 29 FCC Rcd 7051 (2014) (*April 2014 Connect America Order* and/or *FNPRM*); Universal Service Administrative Co.

provides interexchange services in and around PMTC's service territory. RiverStreet, a holding company with no current operations, is a wholly owned subsidiary of Wilkes Telephone Membership Corporation (WTMC), which provides incumbent LEC services in Wilkes County, North Carolina.¹¹ WTMC did not elect to receive model-based support and currently receives cost-based support.¹² Subsidiaries of RiverStreet and WTMC also provide or are authorized to provide competitive LEC services in North Carolina and Virginia.

On April 6, 2018, the Bureau released a Public Notice requesting comment on an application filed by Mr. Daniel M. Bennett, Ellerbe Telephone Company, Inc. (Ellerbe), ETCOM, LLC (ETCOM), and RiverStreet requesting consent to transfer control of Ellerbe and ETCOM from Mr. Bennett to RiverStreet.¹³ Ellerbe provides services as an incumbent LEC in and around the Town of Ellerbe in Richmond County, North Carolina.¹⁴ Ellerbe did not elect to receive model-based support and currently receives cost-based support.¹⁵ Ellerbe and RiverStreet, together with their affiliates, have no overlapping or adjacent incumbent LEC service areas.

On April 6, 2018, the Bureau released a Public Notice requesting comment on an application filed by Tri-County Telephone Membership Corporation (TTMC), Tri-County Communications, Inc. (TCI), and WTMC requesting approval to transfer control of TTMC and TCI to WTMC.¹⁶ TTMC provides services as an incumbent LEC in Beaufort, Hyde, and Washington Counties in eastern North Carolina. TTMC did not elect to receive model-based support and currently receives cost-based support.¹⁷ TCI, a North Carolina corporation and wholly-owned subsidiary of TTMC, provides competitive LEC, interexchange, and video services in Beaufort County and interexchange and video services to TTMC's incumbent LEC customers. TTMC and Wilkes, together with their affiliates, have no overlapping or adjacent incumbent LEC service areas.

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Coon Creek Telephone Company and Coon Creek Telecommunications Corp. by Shellsburg Cablevision, Inc., WC Docket No. 18-177 (filed May 22, 2018). On June 5, 2018, the Bureau released a Public Notice requesting comment on an application filed by Coon Creek Telephone Company (CCTC), Coon Creek Telecommunications Corp. (CC CLEC), and Shellsburg Cablevision, Inc. (Shellsburg Cablevision)

(Continued from previous page) _____

(USAC) 2018 Second Quarter Filings, HCO1-High Cost Support Projected by State by Study Area, <https://www.usac.org/about/tools/fcc/filings/2018/q2.aspx> (last visited June 6, 2018).

¹¹ RiverStreet also owns 100 percent of the issued and outstanding stock of three North Carolina incumbent LECs: Barnardsville Telephone Company, Inc., Saluda Mountain Telephone Company, Inc., and Service Telephone Company, Inc.

¹² Universal Service Administrative Co., Tools, <https://www.usac.org/hc/tools/default.aspx>.

¹³ *Domestic Section 214 Application Filed for the Transfer of Control of Ellerbe Telephone Company, Inc. to RiverStreet Management Services, LLC*, WC Docket No. 18-94, Public Notice, DA 18-347 (rel. Apr. 6, 2018).

¹⁴ Ellerbe wholly owns ETCOM, which provides interexchange services and competitive LEC service.

¹⁵ Universal Service Administrative Co., Tools, <https://www.usac.org/hc/tools/default.aspx>.

¹⁶ *Domestic Section 214 Application Filed for the Transfer of Control of Tri-County Telephone Membership Corporation to Wilkes Telephone Membership Corporation*, WC Docket No. 18-95, Public Notice, DA 18-348 (rel. Apr. 6, 2018).

¹⁷ Universal Service Administrative Co., Tools, <https://www.usac.org/hc/tools/default.aspx>.

requesting consent to the transfer of assets held by CCTC and CC CLEC to Shellsburg Cablevision.¹⁸ CCTC provides services as an incumbent LEC in the exchange area of Blairstown, Iowa. CCTC wholly owns CC CLEC, which provides services as a competitive LEC in the exchange areas of Belle Plaine and Marengo, Iowa. CCTC voluntarily elected to receive universal service support under the A-CAM.¹⁹ Shellsburg Cablevision provides services as a competitive LEC in the exchanges of Central City, Center Point, and Robins, Iowa. Shellsburg Cablevision is wholly owned by Farmers Mutual Telephone Cooperative of Shellsburg, Iowa (FMTC-Shellsburg), which provides services as an incumbent LEC in the exchanges of Alburnett, Shellsburg, Benton Township, and Urbana, Iowa. FMTC-Shellsburg did not elect to receive model-based support and currently receives support as an average schedule company.²⁰ CCTC and Shellsburg Cablevision, together with their affiliates, have no overlapping or adjacent incumbent LEC service areas.

Discussion. The applications described above request approval to consummate transactions involving companies that receive high-cost universal service support under the different mechanisms of fixed model-based support and cost-based support.²¹ The Commission has found that these types of mixed support transactions could result in potential harm to the Commission's goal of ensuring that our limited universal service resources are distributed efficiently and effectively.²² When a company receiving a fixed level of support acquires or is acquired by a company receiving support based on its costs, the combined companies could, and in some instances might, have an economic incentive to shift certain shared or common costs from the model-based support company to the cost-based support company.²³ The Commission therefore found that mixed support transactions warrant a safeguard to protect the financial stability of the CAF as a finite resource and directed the Bureau to impose a limited condition on transactions between parties receiving different types of support to cap high-cost universal service support based on the operating expenses of the cost-based companies.²⁴ Accordingly, to mitigate the potential for cost shifting, we grant the applications subject to the following condition, as established in the *Hargray/ComSouth Order*: the combined operating expense, as defined below, for each post-consummation company's rate-of-return affiliates²⁵ shall be capped at the averaged combined operating expense of the three calendar years preceding the transaction closing date for which operating expense data are available.²⁶

¹⁸ *Domestic 214 Application Filed for the Acquisition of Certain Assets of Coon Creek Telephone Company and Coon Creek Telecommunications Corp. by Shellsburg Cablevision, Inc.*, WC Docket No. 18-177, Public Notice, DA 18-584 (rel. June 5, 2018).

¹⁹ *A-CAM Public Notice*, 32 FCC Rcd at 845 (Attach.).

²⁰ Universal Service Administrative Co., Tools, <https://www.usac.org/hc/tools/default.aspx>.

²¹ Ellerbe and TTMC receive cost-based support and are being acquired by RiverStreet/Wilkes, which is also a cost-based support company. We are reviewing RiverStreet/Wilkes's acquisition of Ellerbe and TMC jointly with RiverStreet's acquisition of PMTC, a fixed-support company, because all three companies will ultimately be affiliated with each other.

²² *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc., for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket 18-52, Memorandum Opinion and Order, FCC 18-62 at 6, para. 19 (rel. May 11, 2018) (*Hargray/ComSouth Order*).

²³ *Id.* at para. 20.

²⁴ *Id.* at paras. 26-31.

²⁵ See 47 U.S.C. 153(1).

²⁶ *Hargray/ComSouth Order* at para. 27. Thus, for example, if the post-consummation company has three rate-of-return affiliates, the averaged prior-three-years combined operating expense would serve as a cap for those affiliates' operating expenses. Capping operating expenses in this way will help ensure, without being unnecessarily burdensome, that the combined entity does not receive additional or inflated universal service support merely

The cap will apply to cost recovery under both High-Cost Loop Support (HCLS) and CAF-Broadband Loop Support (CAF-BLS) and will be applied proportionately to each affiliate's accounts used to determine the affiliate's eligible operating expense for HCLS and CAF-BLS.²⁷ For example, if the cap requires that a post-consummation company's eligible operating expense be reduced by 10 percent, then each account used to determine each rate-of-return affiliate's eligible operating expense shall be reduced by 10 percent.²⁸ For purposes of this cap, operating expense shall include maintenance, network support/network operations/general, benefits, rent expenses, and corporate operations, while depreciation, return on investment, and taxes shall be excluded.²⁹

If any post-consummation company has any affiliates receiving support based on the NECA average schedule (an average schedule company), those affiliates will not be included in the cap as long as they remain average schedule companies. If an average schedule company affiliate converts to a cost company, that conversion will trigger application of the condition to that entity.³⁰ In such instances, the newly converted cost company's operating expense would be capped at the average of the three previous years' operating expense and combined with the inflation-adjusted operating expense data of any other affiliated cost companies.³¹

For all entities to which it applies, the new cap shall also include an annual adjustment for inflation based on the Gross Domestic Product-Channel Price Index (GDP-CPI) for the years in which the new cap remains in effect. This cap shall remain in effect for seven years from the consummation of the transaction.³² The condition will also sunset if all of a post-consummation company's rate-of-return subsidiaries become model-based support companies at any point during the seven-year period.

The Bureau finds, upon consideration of the record, that grant of the applications listed above, subject to compliance with the condition, will serve the public interest, convenience, and necessity.³³ ~~(Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04~~ because of cost accounting that shifts costs from the affiliates receiving fixed support (such as CAM or A-CAM support) to the affiliates receiving cost-based support. *Id.*

²⁷ *Id.* at para. 28.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at n.72.

³¹ If it has not previously done so, the newly converted cost company must submit its prior three years of operating expense data to NECA. NECA will then (1) validate and calculate that company's average operating expense for those three years and (2) combine this three-year averaged capped operating expense with the current year's inflation-adjusted operating expense data of any other affiliated cost companies to calculate the new total combined operating expense at which the newly converted and other cost-company affiliates will be capped. The new combined, capped operating expense will then be applied to determine HCLS and CAF-BLS as described in the paragraph above. If the actual three-year operating expense average cannot be calculated for the newly converted cost company, NECA, in consultation with the Bureau, will use estimates based on NECA's average schedule support formula. *See id.* ("Under the condition, we permit 'average schedule companies' to estimate universal service support pursuant to a formula developed by the National Exchange Carrier Association (NECA).").

³² The Commission has found seven years to be an appropriate period over which to monitor enforcement of the condition and to ensure that the combined entity, which will continue to receive support, does not shift costs from year-to-year. *Id.* at 11, para. 29. The cap will not apply if the parties do not consummate the proposed transaction.

³³ 47 CFR § 63.03(b). The applicants in these proceedings provide incumbent LEC services in their respective territories. Within 30 days of closing the proposed transactions, they must notify USAC so that it can make any appropriate changes to the High Cost Universal Broadband (HUBB) on-line location reporting portal for universal service recipients.

of the Commission's rules, 47 CFR §§ 0.91, 0.291, 63.03, 63.04, the Bureau hereby grants the applications discussed in this Public Notice subject to compliance with the condition described above.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

-FCC-